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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/594,517	06/15/2000	Gerald Francis McBrearty	AUS000264US1	1942
7590 02/03/2004				
Joseph T Van Leeuwen P.O. Box 81641 Austin, TX 78708-1641		EXAMINER SON, LINH L D		
		ART UNIT PAPER NUMBER 2135		

DATE MAILED: 02/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/594,517	Applicant(s) MCBREARTY ET AL.	
	Examiner Linh LD Son	Art Unit 2135	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 June 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>2</u> . | 6) <input type="checkbox"/> Other: _____ |

Detailed Action

1. Change of address filed on 03/1/01 has been received and entered in the file.
2. Examiner has considered the submitted IDS with patent number 4200770 and 5724424.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
4. Claim 9 recites the limitation "the selection" in claim 1. There is insufficient antecedent basis for this limitation in the claim. There is no claim of selection in claim 1. Proper correction is necessary.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. **Claim 1, 5, 6, 11, 12, 14, 17, 19, 20, 22, 24, and 27** are rejected under 35 U.S.C. 102(e) as being anticipated by Scheidt et al (US 6490680).

7. As per **claim 1, 5, 12, 17, and 24**, Scheidt et al discloses a method for securely transmitting data in a network, said method comprising: establishing a secure connection between a plurality of computers, the password across the secure connection (Col 9 lines 3-5); the password used to encrypt and decipher data (Col 9 lines 3-5); and transmitting data encrypted using the password over a non-secure connection (Col 8 lines 10-13).
8. As per **claim 11, 14, and 22** Scheidt et al discloses a computer system comprising: a networked computer system including a plurality of computers connected by a computer network (Col 2 line 49), each of the computers including: one or more processors; a memory connected to the processors (Col 2 lines 5); and a network connection that connects the computer with the computer network (Col 2 line 49); and an encryption tool, the encryption tool including: means for establishing a secure connection between a first computer system and a second computer system (Col 9 lines 2-5), each of the computer systems connected to a computer network; means for sending a password from the first computer system to the second computer system across the secure connection (Col 9 lines 3-5); means for encrypting one or more packets of data using the password as an encryption key (Col 9 lines 3-5); means for transmitting the one or more packets of data from one of the computer systems to the other computer system (Col 2 line 49); and deciphering the one or more packets of data at the

receiving computer system using the password as the encryption key (Col 9 lines 3-5).

9. As per **claims 20**, Scheidt et al discloses the computer product as described in claim 1 and 19 further comprising: means for transmitting the one or more packets of data from one of the computer systems to the other computer system and means for deciphering the one or more packets of data at the receiving computer system using the password as the encryption key (Col 9 lines 2-5).
10. As per **claim 6, 19, 20, and 27**, Scheidt et al discloses a method for transmitting data securely between computers, said method comprising: establishing a secure connection between a first computer system and a second computer system, each of the computer systems connected to a computer network (Col 4 lines 51-65); and sending a password from the first computer system to the second computer system across the secure connection (Col 9 lines 2-5); encrypting one or more packets of data using the password as an encryption key and responsively deciphering the data packets using the password as the encryption key (Col 9 lines 2-5); transmitting the one or more packets of data from one of the computer systems to the other computer system (Col 9 lines 2-5); deciphering the one or more packets of data at the receiving computer system using the password as the encryption key (Col 9 lines 2-5); Scheidt et al system clearly teach of using the secured channel to send the password to the second

computer (Col 8 lines 10-17 and Col 9 lines 2-5). It is inherent that Scheidt et al's system must have means to send a request and have acknowledgement responding to the request from the first computer system to the second computer system prior to the establishing of the secure connection; and further informing the first computer system that the second computer system accepts encrypted data (Col 8 lines 10-17). Scheidt et al clearly disclose a computer system (Col 8 lines 10-13) and computer program (Col 8 line 19) in the invention.

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. **Claims 2, 3, 13, 15, 21, and 26** are rejected under 35 U.S.C. 103(a) as being unpatentable over Scheidt et al (US 6490680) in view of Ehrtman et al (US 4238853).
13. As per **claim 2, 3, 13, 15, and 21**, Scheidt et al discloses the method as described in claims 1, 2, 11, 14, and 19. However, Scheidt et al do not teach the feature of automatically sending a second password based on an event, the

second password replacing the password as the encryption key. However, Ehram et al discloses "Cryptographic communication security for single domain networks" invention, which includes the password replacing in a time interval (Col 8 lines 24-46). Therefore, it would have been obvious at the time of the invention for one of ordinary in the art to combine the feature disclosed by Ehram et al with Scheidt et al invention to prevent the possibility of a hacker intercepting the encrypting key (Col 2 lines 45-57).

Claim Rejections - 35 USC § 103

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

15. **Claims 8, 9, 10, 25, and 26** are rejected under 35 U.S.C. 103(a) as being unpatentable over Scheidt et al (US 6490680) in view of Eberle et al (US-4249180).
16. As per **claims 8, 9, 10, 25, and 26**, Scheidt et al discloses the method and the apparatus as described in claim 1 and 19. However, Scheidt et al do not teach: the method of encrypting the data selectively; selection is based on determining a sensitivity of the data; analyze and determine the data packet is encrypted or

not before deciphering it. Nevertheless, Eberle et al disclose the "Past dependent microcomputer cipher apparatus" invention, which includes all the features above. Eberle et al teach the use of the predetermined control characters of the encoded data to selectively encrypting or deciphering (Col 1 lines 5-10). The predetermined control character can be used to mark the sensitive data. Therefore it would be obvious at the time of the invention for one of ordinary skill in the art to combine method and as well the apparatus of Eberle et al with Scheidt method to ensure the integrity of the data file and to prevent hacker snooping the data content (Col 1 lines 20-25). Further more, Eberle et al invention mainly focus on a hardware apparatus. Nevertheless, the anticipation of using software instead of hardware to carry out the task is also clearly taught (Col 1 lines 45-55).

Claim Rejections - 35 USC § 103

17. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

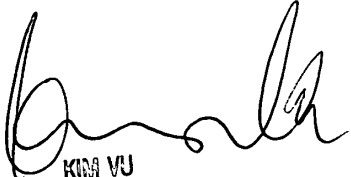
18. Claims 4, 7, 16, 18, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Scheidt et al (US 6490680) in view of Tachibana, Noriyuki (JP363039228).
19. As per claims 4, 7, 16, 18, and 23, Scheidt et al discloses the method as described in claims 1, 2, 11, 14, and 19. However, Scheidt et al do not teach the changing the password using the counter as part of the password and incremented the counter after each transmission. Nevertheless, Tachibana, Noriyuki discloses the "Secret securing system" invention, which teaches a method of using of the inputted digit as part of the password (also well known in the art as Counter) as password information and the time interval of the inputting a password to check the validity of the password (See the Constitution and Abstract); It is obvious at the time of the invention for one of ordinary skill in the art to incorporate the timer (counter) as part of the password to expire the password or ensure the validity of the password before accessing a secured resource (See the last sentence of the constitution). Since the password transmission increment the input digit of the password, it is also obvious that the transmission input digit here can be preset to expire the password or initialize the sending of a replacement password (See the 2nd and 3rd sentence of the Constitution).

Conclusion

20. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
21. Any inquiry concerning this communication from the examiner should be directed to Linh Son whose telephone number is (703)-305-8914.
22. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor Kim Y. Vu can be reached at (703)-305-4393. The fax numbers for this group are (703)-872-9306 (official fax). Any inquiry of general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is (703)-305-9600.

LLS

Patent Examiner


KIM VU
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100